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being, and his liability, founded upon this consideration, extends not merely to his contracts, but (as we have said) to his own negligences and nonfeasances, and misfeasances, as well as to those of his officers and crew. His responsibility for the officers and crew has this additional reason for its support, that he is thus induced to exercise a superior watchfulness over their acts and conduct, and if he were not so made liable for their acts and conduct, he might often by his connivance in their frauds, misfeasances and negligences or nonfeasances, subject the shippers of goods, as well as the owners of the ship, to great losses and injuries, without their having any adequate redress. The policy of the maritime law has therefore indissolubly connected his personal responsibility with that of all the other persons on board who are under his command, and are subject to his authority." Upon examination, however, of the authorities cited by the learned counsel, we find they are confined to cases of contract and collision. We have not, after diligent search, found any authority for the position, that a person sending goods to be laden on board a general ship is entitled to assume, without inquiry, that the goods are to be shipped and stowed by the master rather than by the stevedore, and so, without any contract for any wrong done by the master or the crew, to insist on holding him liable. The rule to enter the verdict for the defendant will therefore be made absolute.

In the Court of Exchequer.

THOMPSON vs. ROSS.

1. The plaintiff's daughter was the domestic servant of the defendant's father; the plaintiff having a contract to make shirts, similar contracts to which she had frequently, employed her daughter at the defendant's father's house, when she had finished her mistress's work, during over hours and leisure time, and with her mistress's knowledge and consent, in helping her to make these shirts. During this time, and when in defendant's father's service, she was alleged to have been seduced by the defendant.

Held, in an action against the defendant by the mother for the seduction of her daughter, that this was not sufficient evidence of loss of service to support the action for seduction.

This was an action brought by the plaintiff, Mrs. Thompson, for the seduction of her daughter by the defendant. The plaintiff's daughter was in the service of the defendant's father as a domestic servant, and living in his house. The plaintiff had a contract with the Messrs. Nicolls, of Regent street, for making shirts, an employment in which she had been by them engaged for some time. Her daughter, in the evenings after she had finished her work for Mrs. Ross, her mistress, used to help (with her mistress's knowledge and consent) her own mother in the making of these shirts. The alleged seduction by the defendant was said to have been when she was the domestic servant of the defendant's mother, and occasionally occupied for her own mother in the making of those shirts. The cause was tried in Middlesex before the Lord Chief Baron, when a verdict was found for the plaintiff, damages 50*l.*, leave being reserved to the defendant to move to set the same aside and enter a nonsuit, or a verdict for the defendant on the second issue, that the daughter of the plaintiff so alleged to have been seduced was not the servant of the plaintiff. A rule *nisi* having been obtained accordingly.

Pearce showed cause. The question in this case is, whether the assistance rendered by the plaintiff's daughter to the plaintiff in helping her, with her mistress's knowledge and consent, to make these shirts at her leisure time, or after she had done her mistress's work of an evening, was not such work as to make the defendant liable to the plaintiff for the loss of service by seduction. In actions of this kind the slightest evidence of any service done, has been held sufficient, even that of making tea or milking cows. POLLOCK, C. B. Those were cases where the party lived in the house of those whose servant she was called. WATSON, B. Suppose the master or mistress of a domestic female servant allowed her to go home for an hour or so in the evening, and when at home the servant does, either for her own inclination, or her parents' pleasure, some trifling act, is she to be considered their servant? For the purpose of supporting such an action as this, she may then be deemed their servant; the inclination of the courts of law has been to hold the smallest act of service sufficient to enable plaintiffs, under such circumstances, to maintain actions for seduction, making tea, for instance. In

Bennett vs. Allcott, 2 T. R. 167, Buller, J. says: "It is not material whether the servant be or be not hired for a year, or whether she has any wages:" it being sufficient that she is a servant *de facto*." And in *Irwin vs. Dearman*, 11 East, 23, damages *ultra* the mere loss of service having been given against the defendant for debauching the adopted daughter and servant of the plaintiff by which he lost her service, the court refused to set aside the inquisition. Lord Ellenborough said, this has always been considered as an action *sui generis* where a person standing in the relation of a parent, or *in loco parentis*, is permitted to recover damages for an injury of this nature *ultra* the mere loss of service. In this case the plaintiff's daughter rendered her mother material assistance in the course of her engagement and contracts to make the shirts, and it was such a service as would enable her mother to support this action against the defendant for his seduction of the daughter, and the loss to the mother of the daughter's service.

D. D. Keane, contra, in support of the rule, was not called upon.

POLLOCK, C. B.—I am of opinion this rule should be made absolute. There was really no service in this case rendered by the daughter to the plaintiff that can enable her to support an action, even such an action as this against the defendant, for what is called the loss of service, slight evidence of service would do no doubt, but then it must have been a true genuine service, such as a master or mistress may command. This was, to make the most of it, but a mere helping of her mother with the consent of the lady who was at that time her real mistress; she lived with Mrs. Ross, the mother of the defendant; and the point mentioned by my brother Watson during the discussion of the case seems to me to be decisive of it in the defendant's favor. Suppose a female domestic servant, on a Sunday evening, was permitted by her master and mistress to go home, and she went home, and when there made her father's tea; that would be a similar case, but surely not enough to constitute such service as would enable her father to maintain an action of this kind as for the loss of service. Here the service performed for her mother might, at any moment, have been withdrawn from her mother by her master or mistress, and Mrs. Ross could have claimed her

entire time. It may be a hard case on both mother and daughter ; but I do not think the service of the daughter to her mother is here sufficient, under the circumstances, to enable the plaintiff to support this action, and the result is that a nonsuit should be entered.

BRAMWELL, B.—I quite agree with the Lord Chief Baron, our duty is to administer the law as we find it ; and the law is, in actions for seduction, that there should be an actual loss of service by the plaintiff of the party seduced, and the character of master and servant must exist between them. The question here is, was there any such relation of master and servant with the mother and daughter ? Certainly there was no evidence of any such arrangement existing ; on the contrary, the evidence shows that the girl was the servant of Mrs. Ross, the defendant's mother, but who allowed her sometimes to assist the plaintiff in the way that has been mentioned. I do not mean to say that a person may not agree to render service to one person for one part of a day, and perform other service for another at a different part of the day, and that either of such services may be sufficient to maintain an action on an occasion of their loss ; but here there was no evidence of any such special contract, and in this case the plaintiff's daughter was the entire servant of Mrs. Ross altogether.

WATSON, B.—I am entirely of the same opinion ; the action is founded upon the loss of service to the party bringing the action. Now what is the loss really sustained here ? Not of service, but of the permission of the defendant's mother, her mistress, to go home, or occasionally to do at her mistress's house a little needlework for her mother. I think the rule should be made absolute.

CHANNEL, B.—I am of the same opinion.

Rule absolute to enter a nonsuit.